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8 Attorney for Creditor
9 TCB INDUSTRIAL, INC.

10 **UNITED STATES BANKRUPTCY COURT**
11 **NORTHERN DISTRICT OF CALIFORNIA**
12 **SAN FRANCISCO DIVISION**

13 In Re

Case No. 19-30088-DM (Lead Case)

14 PG&E CORPORATION

Jointly Administered with
Case No. 19-30089-DM

15 and

16 PACIFIC GAS AND ELECTRIC
17 COMPANY,

TCB INDUSTRIAL, INC.'S
NOTICE OF PERFECTION OF LIEN
(11 U.S.C. § § 362, 546(b))

Debtors.

18 Affects:

[Job No. 18-172 Fresno County]

- 19 ☐ PG&E Corporation
20 ☐ Pacific Gas & Electric Company
21 ☒ Both Debtors

*All papers shall be filed in the Lead Case
Case No. 19-30088DM

22
23 Creditor TCB INDUSTRIAL, INC. ("TCB"), by and through its undersigned counsel, hereby
24 files this notice of perfection, maintenance, and continuation of perfection of its mechanic's lien against
25 the Debtors, PG&E Corporation and Pacific Gas & Electric Company ("Debtors") pursuant to 11 U.S.C.
26 sections 362(b)(3) and 546(b) ("Notice"). In support of this Notice, TCB represents the following:

27 1. TCB is an industrial contractor duly licensed by the state of California, with its principal
28 place of business at 2955 Farrar Avenue, Modesto, California 95354.

2. Debtor Pacific Gas and Electric Company (hereinafter “PG&E”) contracted with TCB to furnish all labor, materials and equipment for the fabrication and delivery of draft tube structural platforms and/or other related construction services (hereinafter “Project”) for the improvement of certain real property owned, or reputed to be owned, by PG&E. The real property is located at the following address, more commonly known as

Kerckhoff Powerhouse

33755 Old Mill Road

Auberry, California 93602

(hereinafter “Real Property”).

3. Prior to the bankruptcy petition, TCB furnished such labor, materials, equipment, and/or supervision for the Project, and other related construction services for the improvement of the Real Property in accordance with the scope of work contained in the contract, and as amended by applicable work orders.

4. The principal sum, exclusive of interest and other charges, that is currently due and owing to TCB for the labor and materials provided to the PG&E pursuant to the contract is:

\$108,000.00

5. Bankruptcy Code, 11 U.S.C. § 362(b)(3) provides that:

The filing of a petition under section 301, 302, or 303 of this title...does not operate a stay...under subsection (a) of this section, of any act to perfect, or to maintain or continue the perfection of, an interest in property to the extent that the trustee's rights and powers are subject to perfection under Section 546(b) of this title or to the extent that such act is accomplished within the period provided under section 547(e)(2)(A) of this title. *11 U.S.C. § 363(b)(3)*.

6. Bankruptcy Code, 11 U.S.C. § 546(b) provides that:

(1) The rights and powers of a trustee under sections 544, 545, and 549 of this title are subject to any generally applicable law that-

(A) permits perfection of an interest in property to be effective against an entity that acquires rights in such property before the date of perfection; or

(B) provides for the maintenance or continuation of perfection of an interest in property to be effective against an entity that acquire rights in such property before the date on which action is taken to effect such maintenance or continuation.

(2) If –

1 (A) a law described in paragraph (1) requires seizure of such property or
2 commencement of an action to accomplish such perfection, or maintenance or
3 continuation of perfection of an interest in property; and
4 (B) such property has not been seized or such an action has not been commenced
5 before the date of the filing of the petition;

6 such interest in such property shall be perfected, or perfection of such interest shall be
7 maintained or continued, by giving notice within the time fixed by such law for such
8 seizure or such commencement. 11 U.S.C. § 546(b).

9 7. Pursuant to California Mechanic's Lien law, a claimant must commence an action to
10 enforce a lien within 90 days after recordation of the claim of lien. *Cal. Civ. Code § 8460(a)*. Because
11 the Debtors filed their Chapter 11 petition for bankruptcy on January 29, 2019, it created an automatic
12 stay of all actions, including a claimant's action to enforce a lien. Thus, TCB was prevented from
13 commencing an action to enforce its liens against the Debtors and perfect its mechanic's liens under the
14 law.

15 8. Accordingly, TCB hereby gives this notice in lieu of the commencement of any action
16 to perfect, maintain, or otherwise preserve its mechanic's liens pursuant to 11 U.S.C. § 546(b) and
17 California Civil Code sections 8460(a), including the recording of a claim of lien, the commencement
18 of action to enforce the Mechanic's Liens, the filing of a Pendency of Action, and/or the service of
19 notice on purchasers of production on the Real Property ("Mechanic's Lien"). A true and correct copy
20 of the Mechanic's Lien is attached hereto as **Exhibit "1"** and incorporated by reference.

21 9. TCB hereby gives notice it intends to enforce its rights under the Mechanic's Lien to the
22 fullest extent allowed under the law. This Notice shall not be construed as an admission that such filing
23 is required or to the necessity of recording, commencement, or seizure. In addition, TCB hereby gives
24 notice that it has, or may be entitled to, additional mechanics' liens rights to properties owned by the
25 Debtors as they become due and owing according to prepetition contracts with the Debtors for the
26 improvement of real property. This Notice shall preserve and continue to preserve any and all of TCB's
27 rights as to the Mechanic's Liens and Bankruptcy Code.

28 10. TCB reserves the right to amend, supplement or otherwise modify this Notice and
reserves any and all rights entitled to it under the applicable law.

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Dated: March 21, 2019.

OSHINSKI & FORSBERG, LTD.

By /s/ Rick Oshinski, Esq.
Rick Oshinski, Esq., CSB 155837
Attorney for Creditor
TCB INDUSTRIAL, INC.

1 **CERTIFICATE OF SERVICE**

2 I, the undersigned, declare and certify as follows:

3 I am over 18 years of age, not a party to this action and employed in Carson City, Nevada. My
4 business address is 504 E. Musser Street, Suite 202, Carson City, Nevada 89701.

5 On March 27, 2019, I served true and correct copies of **TCB Industrial Inc.'s Notice of**
6 **Perfection of Lien [Job No. 18-172 Fresno County]** on the interested parties in this action pursuant
7 to the Order Implementing Certain Notice and Case Management Procedures issued March 6, 2019.

8 ☒ BY CM/ECF ELECTRONIC FILING : I electronically filed the document with the
9 Clerk of the Court by using the CM/ECF system. Participants in the case who are registered CM/ECF
10 users will be served by the CM/ECF System. Participants in the case who are not registered CM/ECF
11 users will be served by mail or by other means permitted by court rules.

12 I declare under penalty of perjury under the laws of the state of California that the foregoing is
13 true and correct.

14 Executed on this 27th day of March, 2019, in Carson City, Nevada.

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16 /s/ Linda Gilbertson
17 Linda Gilbertson
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